

KCC 4844 (K-C 16,629)
PATENT

REMARKS/ARGUMENTS

Claims 1-36, 38, 39 and 42-61 are currently pending in the application. Claims 39 and 42-61 are withdrawn from consideration by this amendment.

The following remarks are responsive to the Office Action dated October 8, 2003.

I. Response to Election/Restriction Requirement

In response to the election/ restriction requirement made in the Office action, applicants hereby elect Group I, corresponding to claims 1-36 and 38, without traverse, for continued prosecution. Applicants reserve the right to file a divisional application directed to the subject matter of the non-elected claims. Claims 39 and 42-61 have been withdrawn from consideration.

II. Response to Rejection of Claims

Claim 1

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 U.S.C. §103(a) as being obvious in view of, U.S. Patent No. 5,858,515 (Stokes et al.).

Claim 1 is directed to a pattern-unbonded nonwoven fabric that comprises of, *inter alia*:

a nonwoven web having a fibrous structure of individual fibers or filaments;

the nonwoven web having on a surface thereof a pattern of continuous bonded areas defining a first plurality of discrete unbonded areas and a second plurality of discrete unbonded areas;

KCC 4844 (K-C 16,629)
PATENT

the first plurality of discrete unbonded areas having a first characteristic; and

the second plurality of discrete unbonded areas having a second characteristic different from the first characteristic.

The essence of this claim is that the continuous bonded area defines two different regions, each having a plurality of discrete unbonded areas. As described in the specification (e.g., page 9, lines 11-28), the two different regions of discrete unbonded areas have at least one set of different characteristics relating to a common property, such as different bond patterns, different opacity levels, different colors, different tensile strengths, different stiffnesses, etc. That is, something about the web is intentionally non-uniform so that one region is distinguishable in some manner over another region.

Claim 1 is submitted to be patentable over the references of record, and in particular Stokes et al., in that whether considered alone or in combination the references fail to show or suggest a nonwoven web having on a surface thereof a pattern of continuous bonded areas defining a first plurality of discrete unbonded areas and a second plurality of discrete unbonded areas wherein the second discrete unbonded area has a second characteristic that is different from a first characteristic of the first plurality of discrete unbonded areas.

As described at page 3 of the present application starting at line 25, Stokes et al. disclose a pattern-unbonded nonwoven fabric (4) having continuous bonded areas (6) defining discrete unbonded areas (8). Stokes et al. lack any disclosure or even a suggestion to form first and second regions of continuous

KCC 4844 (K-C 16,629)
PATENT

unbonded areas wherein the regions have different characteristics as recited in claim 1 of the present application. For example, the process disclosed in Stokes et al. for making the fabric involves the use of a heated pattern roll (42) having openings (48) formed therein uniformly across the length of the roll and all of the same size. Consequently, there is no differing characteristics between any two regions of the fabric disclosed in Stokes et al. Rather, the teachings of Stokes et al. are limited to a fabric having uniform characteristics throughout.

Applicants respectfully submit that the Office action (at item 8 therein) fails to point out any disclosure in Stokes et al. of having two regions of discrete unbonded areas wherein the regions differ in some characteristic. There is no discussion anywhere in the Office action of why claim 1 of the present application is being rejected over Stokes et al. The Office action rejects claims 10-20, which are directed to the different properties which may differ between the first and second regions of discrete unbonded areas on the basis that these properties are inherent in the fabric being claimed. Whether or not that is true is submitted to be a moot point. Rather, the issue is whether Stokes et al. show or suggest making the property non-uniform (e.g., different) in two different regions of the fabric. The answer is that it unequivocally does not.

To the extent that the Office is asserting that having a characteristic that differs between two different regions of discrete unbonded areas of the fabric as recited in claim 1 is inherent in the fabric, applicants respectfully disagree. In relying upon inherency, the Office must provide a basis in fact

KCC 4844 (K-C 16,629)
PATENT

and/or technical reasoning to reasonably support the determination that the allegedly inherent feature necessarily flows from the teachings of the applied prior art." MPEP '2112 citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient for inherency. See MPEP '2112, citing *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993). No such showing has been made by the Office as to the different first and second characteristics recited in claim 1 of the present application.

The other references of record also fail to show or suggest all of the features recited in claim 1.

For these reasons, claim 1 is submitted to be patentable over Stokes et al. and the other references of record.

In the event that the Office maintains its rejection of claim 1, the undersigned respectfully requests a phone call from the Examiner to clarify the Office's position with respect to this claim.

Claims 2-20 and 38 depend directly or indirectly from claim 1 and are submitted to be patentable over the references of record for the same reasons as claim 1.

Claim 21

Claim 21 stands rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 U.S.C. §103(a) as being obvious in view of, U.S. Patent No. 3,766,922 (Krusko).

Claim 21 is directed to a pattern-unbonded nonwoven web that comprises, *inter alia*:

KCC 4844 (K-C 16,629)
PATENT

a first region including a first pattern of continuous bonded areas defining a first plurality of discrete unbonded areas;

at least one second region including a second pattern of continuous bonded areas defining a second plurality of discrete unbonded areas wherein the second pattern is different from the first pattern.

Claim 21 is submitted to be patentable over the references of record, and in particular Krusko, in that whether considered alone or in combination the references fail to show or suggest a pattern-unbonded nonwoven web having a first region including a first pattern of continuous bonded areas defining discrete unbonded areas and a second region including a second pattern of continuous bonded areas that defines discrete unbonded areas and is different from the first pattern of continuous bonded areas.

Krusko discloses an embossed pattern on an absorbent pad constructed of loosely compacted fibers. As shown in Fig. 3 and described at column 6, line 33 through column 7, line 18, the embossed pattern includes substantially identical patterns in the forward (32) and rearward (34) elongate regions of the pad and a different pattern in the middle elongate region (36). More particularly, the pattern at the identical forward and rearward regions comprises intersecting elongate channels (38, 40) embossed into the pad. However, the pattern formed in the middle region (36) comprises "compressed islands (42) defining uncompressed ridges (44) therearound." The uncompressed ridges (44), as is clearly seen in Fig. 3, thus form continuous unbonded areas while the islands (42) form discrete bonded areas.

KCC 4844 (K-C 16,629)
PATENT

In contrast, each of the first and second regions of the web recited in claim 21 comprises a pattern of continuous bonded areas (instead of the continuous unbonded areas disclosed in Krusko) defining discrete unbonded areas (instead of the discrete bonded areas disclosed in Krusko). Krusko thus teaches away from having two different patterns of continuous bonded areas defining discrete unbonded areas as recited in claim 21. Moreover, there is no suggestion found anywhere in Krusko for modifying the embossed pad of Krusko to have two different patterns of continuous bonded areas defining discrete unbonded areas as recited in claim 21.

Applicants respectfully disagree with the Office's statement at page 7, first paragraph, last sentence of the Office action that embossing would inherently provide discrete unbonded areas and continuous bonded areas. In fact, Krusko teaches exactly the opposite, i.e., embossing to provide discrete bonded areas (e.g., the embossed islands (42) shown in Fig. 3 of Krusko) instead of continuous bonded areas as recited in claim 21. No factual basis has been cited by the Office to reasonably support the Office's assertion that the continuous bonded areas defining discrete unbonded areas necessarily flows from the teachings of Krusko. MPEP '2112 citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

The other references of record similarly fail to show or suggest all of the features recited in claim 21.

For these reasons, claim 21 is submitted to be patentable over Krusko and the other references of record.

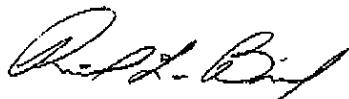
Claims 22-36 depend directly or indirectly from claim 21 and are submitted to be patentable over the references of record for the same reasons as claim 21.

KCC 4844 (K-C 16,629)
PATENT

III. Conclusion

In view of the foregoing, reconsideration and allowance of claims 1-36 and 38 is respectfully requested.

Respectfully submitted,



Richard L. Bridge, Reg. No. 40,529
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

RLB/tmg